

50 CFR Part 17

**Endangered and Threatened Wildlife
and Plants; Proposed Endangered
Status for *Peperomia wheeleri***

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to

determine *Peperomia wheeleri* to be an endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. Critical habitat is not proposed. *Peperomia wheeleri* is endemic to seasonal semievergreen open forests on granodiorite boulders along the north coast of Culebra Island, Puerto Rico. The species is endangered

by destruction of its habitat through deforestation and the activities of feral and domestic animals. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for *Peperomia wheeleri*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by June 9, 1986. Public hearing requests must be received by May 27, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address, and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Mr. David Densmore at the Caribbean Field Office address (809/834-4440) or Mr. Richard P. Ingram at the Atlanta Regional Office address (404/221-3583 or FTS 242-3583).

SUPPLEMENTARY INFORMATION:

Background

Peperomia wheeleri was discovered by Britton and Wheeler during their visit to Culebra Island in 1906. The plants were taken alive to the New York Botanical Garden and the species described from living material. The type specimen was collected from plants at the Garden. The species was not collected again until 1980 (Vivaldi and Woodbury, 1981).

Peperomia wheeleri is an evergreen, hairless, fleshy herb reaching 3 feet (1 meter) in height, with clusters of minute flowers in spikes 4-6 inches (10-15 centimeters) long. The species is restricted to the large granodiorite boulders found on the north slopes of Monte Resaca within the Municipality of Culebra, Puerto Rico. Although the boulder substrate extends over much of the north side of Culebra Island, deforestation and grazing have eliminated or substantially altered the original vegetation. Within the remaining forested areas, foraging by escaped domestic fowl has destroyed or threatens to destroy the humus overlying the boulders, thus altering the microhabitat required by *Peperomia wheeleri*. The remaining populations of this species are located almost entirely within the 375 acre (152 hectare) Monte Resaca Unit of the Culebra National Wildlife Refuge. The number of

surviving individuals is difficult to estimate, and nothing is known about the species' regeneration or population dynamics.

Peperomia wheeleri was recommended for Federal listing by the Smithsonian Institution (Ayensu and DeFilipps, 1978). In August 1979, the Service contracted with Dr. Jose L. Vivaldi, a resident botanist of Puerto Rico, to conduct a status survey of plants considered to be candidates for listing as endangered or threatened in Puerto Rico and the Virgin Islands. Reports and documentation resulting from this survey recommended that *Peperomia wheeleri* be proposed for listing as an endangered species. *Peperomia wheeleri* was included in the Service's most recent (September 27, 1985) comprehensive notice of review of plants under consideration for Federal listing. *Peperomia wheeleri* was included in Category 1 in the notice, which comprises taxa for which the Service has substantial information indicating they should be proposed for endangered or threatened status. *Peperomia wheeleri* had previously been included in the Service's December 15, 1980, notice (45 FR 82479) as a Category-1 species.

In a notice published in the *Federal Register* on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the Smithsonian's 1978 book as under petition within the context of section 4(b)(3)(A) of the Act, as amended in 1982. The Service subsequently found on October 13, 1983, and again on October 13, 1984, and October 13, 1985, that listing *Peperomia wheeleri* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. This proposed rule indicates that the petitioned action is warranted, and constitutes the next required finding in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Peperomia wheeleri* Britton (Wheeler's peperomia) are as follows:

A. The present or threatened destruction, modification, or curtailment

of its habitat or range. Modification and destruction of habitat appear to be the most serious threats to *Peperomia wheeleri*. The species' habitat on Culebra Island has been largely modified or destroyed through deforestation, grazing by cattle and goats, and foraging by domestic fowl, thus eliminating the species throughout most of its former range. Few plants exist outside the boundaries of the Monte Resaca Unit of the Culebra National Wildlife Refuge, where measures are being taken to exclude livestock. However, until this work is complete, and a management plan developed to protect *Peperomia wheeleri*, some additional losses of habitat and individuals are likely. Further deforestation within the Refuge is not expected to occur, although such activities along the Refuge boundaries could cause additional losses by altering the structure and microclimate of the forest edge.

B. Overutilization for commercial, recreational, scientific, or educational purposes. *Peperomia wheeleri* is restricted to a very small area (375 acres) and taking or vandalism could severely threaten this single locality if they were to occur. Increased publicity regarding the location of this plant could increase the chance of taking and/or vandalism occurring.

C. Disease or predation. Disease and predation have not been documented as factors in the decline of this species, although it is likely that some grazing or browsing of plants has occurred. Destruction of *Peperomia wheeleri* habitat by grazing was discussed above in Factor "A."

D. The inadequacy of existing regulatory mechanisms. The Commonwealth of Puerto Rico does not have specific legislation or rules to protect endangered or threatened plant species, although a list of vulnerable species exists. All plants existing on National Wildlife Refuges are protected from collecting (50 CFR 27.51); the population of *Peperomia wheeleri* on Culebra National Wildlife Refuge is protected by this prohibition, to the extent that it is enforceable.

E. Other natural or manmade factors affecting its continued existence. There is insufficient information on the regenerative capacity of *Peperomia wheeleri* to determine whether the present populations will be maintained. The species' habitat requirements are poorly understood, although it appears that maintenance of the forest canopy and humus layer is a minimal requirement.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Peperomia wheeleri* as an endangered species. Since there are relatively few individuals remaining and a continuing risk of damage to the plant and/or its habitat, endangered status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. The populations of *Peperomia wheeleri* are sufficiently restricted (375 acres) that unauthorized collecting or vandalism could significantly affect their numbers. Publication of critical habitat descriptions and maps in the **Federal Register** would increase the likelihood of such activities. The populations of *Peperomia wheeleri* are located on a National Wildlife Refuge and refuge personnel will be informed of the plant's locations and its management needs. No other public notification benefits would accrue from designating critical habitat. Therefore, there is no net benefit in designation of critical habitat for this species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions

against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to any critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. *Peperomia wheeleri* occurs primarily on land under the jurisdiction of the U.S. Fish and Wildlife Service. Management of the Culebra National Wildlife Refuge includes fencing to exclude livestock. Additional measures to remove domestic animals from Refuge lands and to monitor populations of *Peperomia wheeleri* may be desirable.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Peperomia wheeleri*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since the species is virtually unknown in cultivation and is uncommon in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal

and reduction to possession of endangered plant species from areas under Federal jurisdiction. The prohibition will apply to *Peperomia wheeleri* on Federal lands. Permits for exceptions to this prohibition are available. It is likely that few collecting permits for this species will ever be requested. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-1903).

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

- (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Peperomia wheeleri*;
- (2) The location of any additional populations of *Peperomia wheeleri* and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;
- (3) Additional information concerning the range and distribution of this species; and
- (4) Current or planned activities in the subject area and their possible impacts on *Peperomia wheeleri*.

Final promulgation of the regulation on *Peperomia wheeleri* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act 1969, need not be prepared in

connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* on October 25, 1983 (48 FR 49244).

Literature Cited

- Ayensu, E.S., and R.A. DeFilippa. 1978. *Endangered and Threatened Plants of the United States*. Smithsonian Institution and World Wildlife Fund, Washington, D.C. XV + 403 pp.
- Vivaldi, J.L., and R.O. Woodbury. 1981. Status report of *Peperomia wheeleri* Britton. Status report submitted to the U.S. Fish and Wildlife Service, Mayagüez, P.R. 30 pp.

Author

The primary author of this proposed rule is Mr. David Densmore, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 3005-Marina Station, Mayagüez, Puerto Rico 00709-3005 (809/834-4440).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter

I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884 L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 101-508, 116 Stat. 1411 (16 U.S.C. 1531 *et seq.*)

2. It is proposed to amend § 17.12 by adding the following, in alphabetical order under Piperaceae, to the List Endangered and Threatened Plants

§ 17.12 Endangered and threatened plants.

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(h) * * *

Species		Historic range	Status	When listed	Critical habitat
Scientific name	Common name				
Piperaceae—Pepper family.					
<i>Peperomia wheeleri</i>	Wheeler's peperomia	U.S.A. (PR)	E		NA

Dated: February 28, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

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